

R. MICHAEL TURNIPSEED, P.E.
Director

KENNY C. GUINN
Governor

FREEMAN K. JOHNSON
Assistant Director

State of Nevada
Department of Conservation and Natural Resources
Office of the Director
123 West Nye Lane, Room 230
Carson City, Nevada 89706-0818
Telephone (775) 687-4360
Facsimile (775) 687-6122
www.dcnr.nv.gov



Division of Conservation Districts
Division of Environmental Protection
Division of Forestry
Division of State Lands
Division of State Parks
Division of Water Resources
Natural Heritage Program
Wild Horse Program

STATE OF NEVADA
Department of Conservation and Natural Resources
OFFICE OF THE DIRECTOR

Memorandum of Understanding
A Contract Between the State of Nevada
Acting By and Through Its

And

(_____)

WHEREAS, the Legislature in special session in 2001 approved Assembly Bill 9, which required the submission to the voters of the proposal to issue general obligation bonds to preserve and protect the state's natural resources (commonly called Q1 or AB 9; hereinafter referred to as AB 9); and

WHEREAS, at the general election on November 5, 2002, the voters of this state approved a proposal to issue general obligation bonds to preserve and protect and obtain the benefits of the property and natural resources of this state; and

WHEREAS, the voters approved the issuance of \$200,000,000.00 in general obligation bonds; and

WHEREAS, the Legislature during the 2003 session approved a statewide tax levy to repay the principal and interest on the bonds; and

WHEREAS, the Director of the Department of Conservation and Natural Resources (DCNR) is charged with administering the Fund to Protect Natural Resources into which bond sale proceeds will be deposited, and with prescribing the method which governmental entities that have been allocated funds under section 2 of AB 9 may request money from the Fund; and

WHEREAS, this Memorandum of Understanding (MOU) is intended to be a binding agreement governing the application process, the determination of qualified projects eligible for AB 9 funds, the requirement of matching funds, if any, and the eligibility of in kind services, materials, and equipment offered by the applicant to meet its match requirement, as well as other matters necessary for the administration of the Fund;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

REQUIRED APPROVAL. This MOU shall not become effective until and unless approved by the Director of DCNR and the governing body of the applicant agency or organization.

DEFINITIONS.

State means the State of Nevada, its Department of Conservation and Natural Resources (DCNR), its agencies, officers and employees:

Recipient: Those entities which have been allocated funds under authority of Assembly Bill 9 (AB 9), section 2, subsections 1 through 6.

Match: Money and/or value of services, material or equipment that have been or will be expended or utilized directly upon the completion of a covered project. Match is an item that would be an allowable expenditure under the work plan.

Eligible expenses: Expenses that are directly related to the project. Eligible expenses do not include indirect and administrative overhead costs such as salaries and benefits. The Director of DCNR retains the discretion to exclude from reimbursement under this agreement any proffered eligible expenses as an indirect expense.

Cash reimbursement: Direct payment to the recipient in cash for eligible expenses incurred after November 5, 2002.

Bond Cash on Hand: Bond proceeds held, as unexpended, by the recipient during any stage of a covered project.

Work Plan and Status Report: Mandatory form available from DCNR for reporting purposes.

Outlay Report: Mandatory form available from DCNR for reporting purposes.

Total Bond allocation: An amount of money available to the recipient not to exceed the figure allocated to the recipient in AB 9.

CONTRACT TERM. This Contract shall be effective from _____ to _____ and may only be terminated following completion of the project and all requirements in this agreement or by return of grant money upon determination by the recipient's governing body that the proposed project is not feasible.

A. General Requirements

1. Bond proceeds granted under this agreement may be used for any project authorized under the terms of AB 9. The project must have begun on or after July 1, 2000, (the fiscal year in which AB 9 was enacted by the Nevada State Legislature) to be eligible for bond proceeds under this agreement. However, there will be no actual cash reimbursements from bond proceeds for eligible expenses incurred prior to the date of approval of Question 1 by the voters or November 5, 2002. For eligible expenses legitimately incurred between July 1, 2000, and November 5, 2002, the recipient may receive credit against its match requirement, if applicable.
2. Recipients will bear the full responsibility of properly administering funds allocated under AB 9. This responsibility includes complete and accurate accounting of all funds, both bond and matching; ensuring expenditures and procurement activities are in compliance with the enabling legislation, Generally Accepted Accounting Principles, and all other applicable laws and regulations. This requirement also applies to the recipient's contractors and their subcontractors.

Project recipients must exercise prudent project management oversight. Prevention of project overruns/shortfalls is the responsibility of each recipient. The State of Nevada, its Department of Conservation and Natural Resources, and the AB 9 program administered under this agreement will not be obligated to supplement project funds, beyond the approved project budget, due to cost overruns, shortfalls, unforeseen circumstances, or any other reason.

3. Applicants for AB 9 bond proceeds must submit a Work Plan and Status Report on the form available from DCNR Director's Office, which must contain a brief description of each proposed project by providing the following information:
 - a) Project description
 - b) Brief explanation justifying use and eligibility of AB 9 funds
 - c) Project time schedule, including date project was or will be initiated, and the estimated completion date
 - d) Project budget and schedule of fund requests
 - e) If applicable, identification and demonstration of required match for bond funds.

The above form must be submitted to DCNR for review in advance of bond proceeds disbursement. The Director of DCNR reserves the right to reject non-conforming applications and to either request clarification of any matter deemed to be non-conforming or require the applicant to resubmit a new application. The Director reserves the right to reject any application for failure of the proposed project to qualify under the general requirements of AB 9.

4. Subsequent changes to an approved project must be documented and submitted to DCNR in advance of implementation. If the change results in a significant project amendment (either in project scope or budget line item/category) it requires submittal of a revised "Work Plan and Status Report" prior to initiation of the change.
5. Total bond allocations available to each recipient are not to exceed the figures in AB 9. Bond amounts allocated to each recipient may be reduced, however, as allowed by section 3 of AB 9. Any adjustment to an applicants' grant will be made on a prorated basis to all recipients.
6. All projects receiving bond funds will post an appropriate sign at the project site acknowledging the funding source.

B. Requests for Reimbursement/Advances

1. Advances may be requested, but the requested advance amount must be based on realistic expenditure projections as contained in the cash flow projections previously submitted to the State of Nevada, Office of the Treasurer, and must be liquidated within 90 days from receipt. The Director retains discretion to grant advances; recipients requesting an advance should not expect to automatically receive the requested amount.
2. Cash reimbursements to the recipient will be by direct payment to the recipient for eligible expenses incurred after November 5, 2002, but before the recipient has received bond proceeds pursuant to its allocation under AB 9.

3. Advances and cash reimbursements are subject to the following conditions:
 - a) If a recipient requests an advance, the Outlay Report must be submitted on a quarterly basis until all advance amounts are spent
 - b) Requests for reimbursements may not outpace currently available bond proceeds specifically designated for their project(s). Recipients should refer to the cash flow estimate previously provided by recipient to the State of Nevada, Office of the State Treasurer
 - c) Requests for reimbursements/advance may not exceed the total amount approved (bond share) for the project(s)
 - d) Funds will not be disbursed to any entity for the purpose of simply accruing interest
 - e) Recipients should not commingle AB 9 expenditures/funds with non-AB 9 related expenditures and must separately account for these expenditures and revenue sources.
4. The above policies for cash management apply to not only the primary recipient of the bond funds, but also their contractors and subcontractors.

C. Bond Cash on Hand, Excess Balances

1. Cash on hand, including amounts received as advances, must be spent within 90 days. The DCNR may require repayment of any unspent advance amount at the end of the 90-day period.
2. Cash on hand may be subject to arbitrage penalties which recipients will be required to pay from sources other than bond proceeds.
3. Any interest earned on bond proceeds must be returned to the AB 9 Fund, administered by the DCNR, Carson City, Nevada.
4. The above policies for cash management apply to not only the primary recipient of the bond funds, but also their contractors and subcontractors.

D. Match (If Applicable)

1. If required by the enabling legislation, recipients must provide evidence of ability to meet, or that they have met, the required match. Match credit will be granted for cash expended, or for the value of services, material or equipment after the project was begun but not prior to July 1, 2000. Match, both as budgeted and as expended, must be approved by DCNR.
2. Written records must substantiate recipient's match, including but not limited to timesheets, documentation and justification of values utilized for labor, equipment, materials, etc. All accounting documentation must be maintained by the recipient (refer to Section VI – Retention and Record Keeping) and is subject to audit. DCNR reserves the right to request additional documentation from the recipient regarding proffered documentation of match. DCNR reserves the right to reject all or part of any proffered substantiation of a recipient's match.

3. If a recipient is required to provide a match, eligibility to receive the bond proceeds is contingent upon meeting the appropriate amount of required 50% matching contribution of project related expenditures.
4. Improperly or insufficiently matched bond payments will be subject to repayment by the recipient (from non-AB 9 sources), in part or in total.

E. Periodic Reporting

1. Recipients must submit annually a Work Plan and Status Report to DCNR, which will provide a status of each project along with cumulative expenditures through June 30th. This annual report will also require recipients to provide brief statements that will address any problems encountered, time delays expected, and any adjustment to the completion date.
2. These reports will be due to DCNR Director's Office by August 15 of each year that the project is active.
3. Supplementation of the annual reporting requirement in this section may be required in accordance with General Requirements set forth above.

F. Retention and Record Keeping

1. Recipients agree to maintain all records relevant to its AB 9 project for which funds were allocated in accordance with NRS chapter 239; additionally, recipient must keep records at least six (6) years from the end of the state fiscal year (July-June) in which each project was completed.
2. If any litigation concerning the project is begun before the expiration of this six (6) year period, the individual file must be retained for six (6) calendar years from the date of resolution of the litigation; and
3. Before any files are destroyed recipient must contact the DCNR to obtain and verify final disposition instructions. This requirement also applies to the recipient's contractors and any subcontractors.
4. Examples of records subject to retention provisions are (list is not intended to be all inclusive): all fiscal/accounting records and reports; all drawings, blueprints, renderings, architect and/or engineering reports, financial estimates, fee schedules, site proposals, photos, maps, copies of easements, copies of building permits, copies of inspections, related correspondence; and all procurement activities, including contractors proposals and rates.

G. Other

1. Recipient may be subject to audit and must allow access to applicable AB 9 records, if so directed by the State of Nevada. If any audit finding reveals that either an overpayment was

made, or ineligible costs were incurred (either match or bond proceeds), the overpayment or the ineligible expense must be repaid to the AB 9 Fund, DCNR, Carson City, Nevada.

2. Recipient agrees to comply with all policies and procedures adopted by the DCNR Director's Office and must submit project and budget information on forms prescribed by the Director's Office and within specified deadlines.
3. Improperly completed forms will not be processed, and will be returned for correction, which may cause delays in processing cash disbursements.
4. It is the policy of the Board of Examiners and the DCNR to restrict contractors, as well as all other recipients of public funds, to the same (or less) travel rates and procedures allowed State employees. This requirement also applies to the recipient's contractors and any subcontractors.
5. Certain disbursements will not be paid unless agreed to in advance. These include:
 - a) Secretarial or word processing services (normal, temporary, or overtime);
 - b) Any other staff charges, such as filing, proofreading, regardless of when incurred;
 - c) Photocopy expenses of more than 15 cents per page;
 - d) Photocopy expenses in excess of \$2,000.00 for a single job;
 - e) Computer time.

The State will not reimburse expenses for the following:

- a) Local telephone expenses or office supply costs;
 - b) The costs of first-class travel;
 - c) Indirect and administrative overhead costs such as salaries and benefits.
6. NOTICE. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified above.
 7. INDEMNIFICATION. Recipient shall indemnify, hold harmless and defend Grantor from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the Recipient, its officers, employees and agents.
 8. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
 9. ASSIGNMENT. Recipient shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written consent of the State.

H. ENTIRE CONTRACT AND MODIFICATION. This Agreement and its integrated attachment(s), if any, constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

_____ Recipient- Name	_____ Telephone No.	_____ Date	_____ Title
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_____ DCNR	_____ Date	_____ Title
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_____ Attorney General (Signature as to form)	_____ Date	_____ Title
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- Nothing to Follow -